

REMARKS

The above amendments to the above-captioned application along with the following remarks are being submitted as a full and complete response to the Office Action dated December 9, 2008. In view of the above amendments and the following remarks, the Examiner is respectfully requested to give due reconsideration to this application, to indicate the allowability of the claims, and to pass this case to issue.

Status of the Claims

As outlined above, claims 1-4 stand for consideration in this application, wherein claims 1-3 are being amended to more particularly point out and distinctly claim the subject invention. All amendments to the application are fully supported therein. Applicants hereby submit that no new matter is being introduced into the application through the submission of this response.

Formal Rejections

Claims 1-3 were rejected under 35 U.S.C. §112, second paragraph, as being indefinite. As outlined above, claims 1-3 are being amended to more particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Accordingly, withdrawal of the rejections of claims 1-3 is respectfully requested.

Prior Art Rejection

The Examiner rejected claims 1-4 under 35 U.S.C. §103(a) as being unpatentable over Ballantyne (U.S. Patent No. 5,867,821), in view of Rozen (U.S. Patent No. 6,073,106). Applicants respectfully traverse this rejection for the reasons set forth below.

The present invention as now recited in claim 1 is directed to a method for a medical support system comprising the steps of: providing patient terminals configured to be used individually by a plurality of patients; providing medical institution terminals configured to be used individually by a plurality of medical institutions; and providing a management server each patient terminal being connected with the medical institution terminals and the management server via a network, the medical institution terminals being connected with the management server via a network. The step of providing the management server comprises storing in a medical information storage device medical information of each patient and controlling an input and output of the medical information of each patient into and from a medical information storage device, the medical information including medical records,

examination results, and medical images. The step of controlling the input and output of the medical information via the medical information control device includes the steps of upon receiving a request from a patient terminal of a first patient among the plurality of patients to upload in the management server medical information of the first patient managed by a medical institution among the plurality of medical institutions, transmitting upload permission key data for uploading the medical information of the first patient in the management server and a content of the medical information of the first patient to be uploaded by the request to the medical institution terminal of the requested medical institution; upon receiving the upload permission key data transmitted from the medical institution terminal, authenticating validity of the upload permission key data, transmitting to the medical institution terminal a permission response for transmitting the medical information of the first patient to the management server, and deferring upload of the medical information of the first patient; and upon receiving the medical information of the first patient transmitted from the medical institution terminal, storing the medical information of the first patient in the medical information storage device.

As now recited in claim 2, the present invention is directed to a method for a medical support system comprising the steps of: providing patient terminals configured to be used individually by a plurality of patients; providing medical institution terminals configured to be used individually by a plurality of medical institutions; and providing a management server, each patient terminal being connected with the medical institution terminals and management server via a network, the medical institution terminals being connected with the management server via a network. The step of providing the management server comprises storing in a medical information storage device medical information of each patient and controlling an input and output of the medical information of each patient into and from a medical information storage device, the medical information including medical records, examination results, and medical images. The step of controlling the input and output of the medical information includes, upon receiving a medical information download request for downloading and viewing medical information of a first patient among the plurality of patients from a medical institution terminal of a medical institution among the plurality of medical institutions, transmitting a content of the medical information download request to a patient terminal of the first patient; upon receiving a permission response for downloading the medical information of the first patient from the patient terminal, transmitting download permission key data which permits the medical institution of the first patient to download and view the medical information of the first patient to the medical institution terminal; and upon

receiving the download permission key data transmitted from the medical institution terminal, authenticating validity of the download permission key data and transmitting the medical information of the first patient to the medical institution terminal.

The present invention as recited in claim 3 is directed to a method for a medical support system comprising the steps of: providing patient terminals configured to be used individually by a plurality of patients; providing medical institution terminals configured to be used individually by a plurality of medical institutions; and providing a management server, each patient terminal being connected with medical institution terminals and management server via a network, the medical institution terminals being the management server via a network. The step of providing the management server comprises storing in a medical information storage device medical information of each patient, and controlling an input and output of the medical information of each patient into and from a medical information storage device, the medical information including medical records, examination results, and medical images. The step of controlling the input and output of the medical information via the medical information control device includes, upon receiving a medical information reference request from a first medical institution terminal of a first medical institution among the plurality of medical institution to allow a second medical institution among the plurality of medical institution to download and view the medical information of a first patient among the plurality of patients, transmitting a content of the medical information reference request to a patient terminal of the first patient; upon receiving a permission response from the patient terminal of the first patient to permit the second medical institution to download and view the medical information of the first patient, transmitting download permission key data to permit the second medical institution to download and view the medical information of the first patient to the second medical institution terminal; and upon receiving the download permission key data transmitted from the second medical institution terminal, authenticating validity of the download permission key data and transmitting the medical information to a second medical institution terminal of the second medical institution.

Finally, the present invention as set forth in claim 4 is directed to a medical support method in a management server, the data management institution connected via a network to a patient terminal of a patient, a first medical institution terminal of a first medical institution, and a second medical institution terminal of a second medical institution respectively, wherein the management server comprises a medical information storage device for storing medical information of the patient and a medical information control device for controlling an input and output of the medical information into and from the medical information storage

device, the medical information including medical records, examination results, and medical images, the method comprising the steps of (1) a reference request step for, upon receiving a medical information reference request from the first medical institution terminal to allow the second medical institution, to which the patient is introduced, to download and view the medical information of the patient, with the medical information control device, transmitting a content of the medical information reference request to the patient terminal of the patient; (2) a reference permission step for, upon receiving a permission response from the patient terminal to permit the second medical institution to download and view the medical information, with the medical information control device, transmitting download permission key data to permit the second medical institution to download and view the medical information to the second medical institution terminal; and (3) a reference execution step for, upon receiving the download permission key data transmitted from the second medical institution terminal, with the medical information control device, authenticating validity of the download permission key data and transmitting the medical information to the second medical institution terminal.

Among the main features of the present invention, the present invention devises a system whereby a medical institution may request and receive patient information from another medical institution, but only after the patient has given permission for such access. This allows the patient to control the dissemination of his/her medical information. Using the recitation of claim 1 as an example, the present invention embodies the above-noted feature as, among other ways, the step of controlling the input and output of the medical information via the medical information control device that includes the steps of upon receiving a request from a patient terminal of a first patient among the plurality of patients to upload in the management server medical information of the first patient managed by a medical institution among the plurality of medical institutions, transmitting upload permission key data for uploading the medical information of the first patient in the management server and a content of the medical information of the first patient to be uploaded by the request to the medical institution terminal of the requested medical institution; upon receiving the upload permission key data transmitted from the medical institution terminal, authenticating validity of the upload permission key data, transmitting to the medical institution terminal a permission response for transmitting the medical information of the first patient to the management server, and deferring upload of the medical information of the first patient; and upon receiving the medical information of the first patient transmitted from the medical institution

terminal, storing the medical information of the first patient in the medical information storage device.

Each of claims 2-4 embodies a similar recitation for the step of controlling the input and output of the medical information via the medical information control device, as set forth hereinabove.

In contrast, as admitted by the Examiner in the Office Action, Ballantyne does not disclose, teach or suggest any such structure or operation. Rather, Ballantyne merely shows a conventional system for “*the distribution and administration of medical services, entertainment services, electronic medical records, educational information, etc. to a patient's individual electronic patient care station (PCS) interconnected to a master library (ML) which stores data in digital compressed format, through a local medical information network. The patient/medical personnel interact with this medical information network through the unique PCS and receives the requested service or data from the master library (see Abstract).*” As such, Ballantyne cannot by itself render each and every feature of the present invention obvious to one of skill in the art.

The secondary reference of Rozen merely discloses a PIN code to see medical information. Specifically, Rozen relates to a system wherein, “[v]ia Internet communications or via phone/fax/mail, a participant is prompted to provide a constant identifier and a selected password. Emergency and confidential categories of medical information are identified, and the participant is prompted to provide personal information in each of the categories and a different personal identification number (E-PIN, C-PIN) for each category. The participant is also prompted to provide an instruction to disclose or to not disclose the personal information in the emergency category in the event a requester of the information is an emergency medical facility and is unable to provide the participant's E-PIN. Alteration of any of the participant's medical information is enabled upon presentation of the participant's identifier and password by the requester. The emergency information or the confidential information is disclosed upon presentation of the participant's identifier and E-PIN or C-PIN (see Abstract).” Applicants will contend that Rozen simply requires the use of a PIN code by a participant that, once disclosed, the PIN code can be used by any requester to access the information of the participant. Such an uncontrolled use of the participant's information is contrary to the spirit and scope of the present invention as claimed. In particular, Ballantyne in combination with Rozen would thus embody a system and method that would contradict or teach away from the structure and operation of the present invention.

It is well established in the case law that a rejection based on prior art that teaches away from the present invention is improper. Where the prior art teaches away from the claimed invention, it cannot render the claimed invention obvious. Bausch & Lomb, Inc. v. Barnes-Hind/Hydrocurve, Inc., 230 U.S.P.Q. 416, 420 (Fed. Cir. 1986); In re Gordon, 221 U.S.P.Q. 1125, 1127 (Fed. Cir. 1984).

Applicant will contend that the only way one of skill in the art could achieve the present invention by relying on the teachings of Ballantyne and Rozen would have been by relying on the disclosure of the present invention as a guide for making the combination. It is well established that such a combination is improper. Even considering the standards set forth under the Supreme Court's *KSR* decision, Applicant will contend that the body of prior art teachings presented by the combination of Ballantyne and Rozen fails to (a) yield predictable results even relevant to the present invention, (b) solve any problem even remotely similar to that addressed by the present invention, or (c) show much less suggest that the present invention embodies a combination that one of ordinary skill in the art would have found "obvious to try" in light of Ballantyne and Rozen.

Further, in light of the combination of Ballantyne with Rozen, Applicant will contend that there is no other evidence that could have been added that would have made the combination of Ballantyne and Rozen more relevant to the present invention as claimed. In other words, given what would result from the combination of Ballantyne and Rozen, one of skill in the art would still be unable to achieve the present invention even knowing, among other things, (1) the inventor's training or education in the relevant field; (2) whether the present invention had reasonable expectation of success; (3) whether the invention was a predictable result; (4) whether the invention could have been achieved by mere routine research methodology; (5) any prior art outside of the field of the invention that allegedly solved the same problem as the invention; (6) any general technical principles and concepts found in textbooks, trade literature and other sources that would have been available to one of skill in the art; or (7) any secondary considerations under *Graham*. Thus, the present invention as recited in at least claim 1 is distinguishable and thereby allowable over Ballantyne and Rozen.

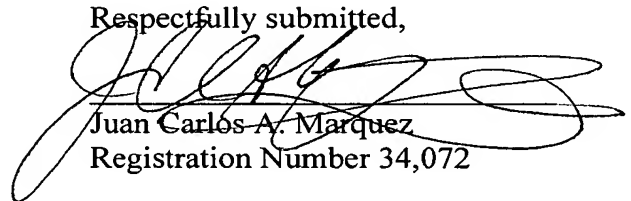
As noted above, claims 2-4 have substantially the same features as those of claim 1. As such, the arguments set forth above are equally applicable here. Claim 1 being allowable, claims 2-4 must also be allowable.

Conclusion

In view of all the above, Applicant respectfully submits that certain clear and distinct differences as discussed exist between the present invention as now claimed and the prior art references upon which the rejections in the Office Action rely. These differences are more than sufficient that the present invention as now claimed would not have been anticipated nor rendered obvious given the prior art. Rather, the present invention as a whole is distinguishable, and thereby allowable over the prior art.

Favorable reconsideration of this application as amended is respectfully solicited. Should there be any outstanding issues requiring discussion that would further the prosecution and allowance of the above-captioned application, the Examiner is invited to contact the Applicant's undersigned representative at the address and phone number indicated below.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Juan Carlos A. Marquez', is written over a horizontal line.

Juan Carlos A. Marquez
Registration Number 34,072

REED SMITH LLP
3110 Fairview Park Drive
Suite 1400
Falls Church, Virginia 22042
(703) 641-4200

March 9, 2009
JCM/